

**REMARKS**

In the August 4, 2006 Office Action, the Examiner noted that claims 1-12 were pending in the application and rejected claims 1-12 under 35 USC § 102(e) as anticipated by U.S. Patent 6,751,616 to Chan (Reference A). Claims 1-12 remain in the case. The rejections are traversed below.

**Examiner Responses**

In items 6 and 7 on pages 6 and 7 of the August 4, 2006 Office Action, the Examiner responded to the preliminary arguments in the Amendment filed May 24, 2006 (not June 2, 2006 as indicated in the August 4, 2006 Office Action), but not to all of the arguments in the May 24, 2006 Amendment. First, the "Responses" will be addressed and then the arguments that were not addressed will be repeated.

In response to the argument that the portions of Chan cited in the January 24, 2006 Office Action "did not teach or suggest anything that is done during relocation of a metadata server", the Examiner cited column 11, lines 35-41 of Chan which was not cited in the January 24, 2006 Office Action. This portion of column 11 indicates that when "a node leaves the system, [and] the system is reconfigured to reflect the current cluster of available active nodes" (column 4, lines 20-21). The cited portion of column 11 starts with an assumption that "one message can hold the lock information for one resource being moved from an old master node to a new master node" (column 11, lines 35-37) and then describes a formula for "the total number of messages required" (column 11, lines 37-38) for "each of the n surviving nodes ... [to] be assigned as the master node for a[n] equal portion of the resources that need new masters" (column 11, lines 32-34).

While the portion of column 11 cited in the "Examiner Responses" of the August 4, 2006 Office Action indicates that relocation of masters is typically involved in the reconfiguration process disclosed by Chan, it does not indicate what Chan discloses about "relocation of a required metadata server" (e.g., claim 1, line 2), other than the number of messages required. The claims under examination are not directed to reducing the number of such messages, as Chan evidently is, but rather, what is done during relocation of a metadata server. What is recited in the claims as being done during relocation of a metadata server was discussed on page 6 of the May 24, 2006 Amendment. The "Examiner Responses" only addressed what Chan taught regarding "*releasing or opening locks*" (August 4, 2006 Office Action, page 6, line 17, italics in original). Furthermore, the "Examiner Responses" in regard to releasing or opening

locks apparently were directed to the paragraph at the bottom of page 5 of the May 24, 2006 Amendment, not the paragraph at the bottom of page 6. In addition, there was no response to the arguments in the first paragraph on page 6 of the May 24, 2006 Amendment. Therefore, the arguments on page 6 of the May 24, 2006 Amendment are repeated below.

In the "Examiner Responses" related to releasing or opening locks in item 7 on pages 6-7 of the August 4, 2006 Office Action, for the first time column 2, lines 55-60 was cited. The sentence being cited merely describes the conventional function of a lock. No mention of whether "relocation of a required metadata server is underway during execution of the operations on the virtual metadata" (claim 1, lines 2-3) appears in the cited portion of column 2. The preceding sentences in the paragraph at column 2, lines 44-60 of Chan indicate that the paragraph is describing what happens when "one database server requests a lock on a resource while another database server has a lock on the resource" (column 2, lines 49-50). No explanation was provided in the "Examiner Responses" regarding why the paragraph at column 2, lines 44-60 of Chan is relevant "relocation of a required metadata server" as recited in the claims. Therefore, it is submitted that the "Examiner Responses" failed to rebut the arguments on page 6 of the May 24, 2006 Amendment (also repeated below) and the rejection of the claims based on Chan should be withdrawn.

#### **Rejection under 35 USC § 102(e)**

Even when the reconfiguration described in Chan includes relocation of a metadata server, the cause and effect of the procedure described in the last paragraph of column 5 of Chan is exactly the opposite of what is recited in the claims. In the claims, locks on virtual metadata are released or opened "if relocation of a required metadata server is underway" (claim 1, lines 2-3). The exact opposite is described at column 5, lines 56-67 of Chan, i.e., if locks are open then an activity which for sake of argument might be considered equivalent to relocation of metadata server is **initiated**. Therefore, even if the activity described in column 5, lines 56-67 is considered equivalent to relocation of a metadata server, the operation recited at lines 2-3 of claim 1 is not described as being performed, because the locks are not released "if relocation of a required metadata server is underway" (claim 1, lines 2-3), but rather relocation is initiated if too many locks are open.

Claims 5 and 10 recite limitations on line 5 and lines 3 and 4, respectively, that are similar to the limitations in the body of claim 1. Therefore, it is submitted that claims 1, 5 and 10, as well as claims 2-4, 6-8, 11 and 12 which depend therefrom, patentably distinguish over Chan for at least this reason.

In the rejection of claim 9 on page 5 of the Office Action, column 5, lines 43-55 of Chan was cited as disclosing "release [of] a lock on virtual metadata when relocation of said at least one metadata server is underway" (Office Action, page 5, lines 8-9). This portion of Chan only describes maintaining a hash map "which associates a plurality of hash value ranges with each of one or more master nodes" (column 5, lines 47-49) and that "hash value ranges are re-mapped to master nodes by revising the hash map without changing the constant hash function" (column 5, lines 50-51) based on "the amount of lock information or a weight ... associated with each node in the cluster ... selected from a set of non-uniform master weights" (column 5, lines 52-55). Nothing has been found in the paragraph that adds to the next paragraph at lines 56-67 of column 5, which was discussed above with respect to the rejection of claims 1, 5 and 10. Since claim 9 recites "release [of] a lock on virtual metadata when relocation of said at least one metadata server is underway during execution of operations on the virtual metadata" (claim 9, last three lines), it is submitted that claim 9 patentably distinguishes over Chan for the reasons discussed above with respect to claims 1, 5 and 10.

#### **Request for Withdrawal of Finality**

In item 8 on page 7 of the August 4, 2006 Office Action, it was asserted that "Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action." First, it is noted that no "new ground(s) of rejection" were presented. The wording of the rejection in item 5 on pages 2-5 of the August 4, 2006 Office Action is identical to the rejection of the claims in the January 24, 2006 Office Action. Second, as stated in the May 24, 2006 Amendment, the only change made to the claims was to "correct a typographical error" in claim 9. Therefore, there was no amendment that would have "necessitated the new ground(s) of rejection" if there had been new grounds.

Considering that significant arguments in the May 24, 2006 Amendment distinguishing the claims over Chan were not addressed by the August 4, 2006 Office Action and, as discussed in the preceding paragraph, there was no basis for making the August 4, 2006 Office Action final, withdrawal of the finality of the August 4, 2006 Office Action and a new Office Action addressing all of the arguments herein is respectfully requested.

#### **Summary**

It is submitted that Chan does not teach or suggest the features of the present claimed invention. Thus, it is submitted that claims 1-12 are in a condition suitable for allowance. Reconsideration of the claims and an early Notice of Allowance are earnestly solicited.

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Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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